

**Executive Summary – Enforcement Matter – Case No. 50564**  
**TRI-COUNTY POINT PROPERTY OWNERS ASSOCIATION**  
**RN103015053**  
**Docket No. 2015-0761-MWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MWD

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Boca Chica Sec 3 Plt, located approximately 12,000 feet southwest of the point where State Highway 35 crosses Five Mile Branch, Jackson County

**Type of Operation:**

Wastewater treatment facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

**Texas Register Publication Date:** March 18, 2016

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$8,562

**Amount Deferred for Expedited Settlement:** \$1,712

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$200

**Total Due to General Revenue:** \$6,650

Payment Plan: 35 payments of \$190 each

**Supplemental Environmental Project ("SEP") Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major or Minor Source:** Minor

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

**Executive Summary – Enforcement Matter – Case No. 50564**  
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**RN103015053**  
**Docket No. 2015-0761-MWD-E**

***Investigation Information***

**Complaint Date(s):** April 25, 2015

**Complaint Information:** Alleged a pumping unit was not properly repaired and raw sewage being discharged onto the ground from a broken sewer line.

**Date(s) of Investigation:** February 27, 2015

**Date(s) of NOE(s):** April 28, 2015

***Violation Information***

1. Failed to maintain authorization for the discharge of wastewater into or adjacent to any water in the state. Specifically, the Respondent did not renew Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012880001, which expired January 1, 2015, and continued to discharge wastewater from the Facility without authorization [30 TEX. ADMIN. CODE §§ 305.42(a), 305.65 and 305.125(2), and TEX. WATER CODE § 26.121(a)(1)].
2. Failed to prevent the unauthorized discharge of wastewater into or adjacent to any water in the state. Specifically, two discharges of wastewater occurred from the Facility's wastewater collection system: 1) approximately 30 gallons of wastewater discharged into the backyard of a residence located at 112 Catfish Drive when a broken pumping unit switch caused the pumping unit to fail; and 2) an unknown amount of wastewater discharged from a ruptured sewer line into a drainage ditch on Porpoise Drive [TEX. WATER CODE § 26.121(a)(1)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent has implemented the following corrective measures:

- a. On February 28, 2015, repaired a ruptured sewer line located on Porpoise Drive;
- b. By February 28, 2015, ceased the discharge and remediated the affected area resulting from an unauthorized discharge on Porpoise Drive;
- c. On March 5, 2015, replaced the float switch to the sewer pump located at 112 Catfish Drive;
- d. On March 10, 2015, adjusted the float switch to the sewer pump located at 112 Catfish Drive; and
- e. By March 13, 2015, ceased the discharge and remediated the affected area resulting from an unauthorized discharge at 112 Catfish Drive.

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**Technical Requirements:**

The Order will require the Respondent to:

- a. Immediately, and until such time that authorization to operate is obtained, or until 300 days, whichever is earlier, comply with the permitted limitations and conditions of expired TPDES Permit No. WQ0012880001;
- b. Within 30 days, submit a permit application;
- c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing; and
- d. Within 300 days, submit written certification that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained.

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Jason Fraley, Enforcement Division,  
Enforcement Team 2, MC 169, (512) 239-2552; Melissa Cordell, Enforcement Division,  
MC 219, (512) 239-2483  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** Stanley J. Kazwell, Jr., President, TRI-COUNTY POINT PROPERTY  
OWNERS ASSOCIATION, 14 County Road 480, Palacios, Texas 77465  
**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	4-May-2015	<b>Screening</b>	20-May-2015	<b>EPA Due</b>	
	<b>PCW</b>	20-May-2015				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	TRI-COUNTY POINT PROPERTY OWNERS ASSOCIATION		
<b>Reg. Ent. Ref. No.</b>	RN103015053		
<b>Facility/Site Region</b>	14-Corpus Christi	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	50564	<b>No. of Violations</b>	2
<b>Docket No.</b>	2015-0761-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jason Fraley
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$8,750
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	5.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$437
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Notes: Enhancement for one month of self-reported effluent violations.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	-\$625
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$911  
Estimated Cost of Compliance: \$11,600  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$8,562
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$8,562
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$8,562
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$1,712
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$6,850
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Screening Date 20-May-2015

Docket No. 2015-0761-MWD-E

PCW

Respondent TRI-COUNTY POINT PROPERTY OWNERS ASSOCIATION

Policy Revision 4 (April 2014)

Case ID No. 50564

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103015053

Media [Statute] Water Quality

Enf. Coordinator Jason Fraley

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for one month of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 5%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 5%

Screening Date 20-May-2015

Docket No. 2015-0761-MWD-E

PCW

Respondent TRI-COUNTY POINT PROPERTY OWNERS ASSOCIATION

Policy Revision 4 (April 2014)

Case ID No. 50564

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103015053

Media [Statute] Water Quality

Enf. Coordinator Jason Fraley

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 305.42(a), 305.65 and 305.125(2), and Tex. Water Code § 26.121(a)(1)

## Violation Description

Failed to maintain authorization for the discharge of wastewater into or adjacent to any water in the state, as documented during an investigation conducted on February 27, 2015. Specifically, the Respondent did not renew Texas Pollutant Discharge Elimination System Permit No. WQ0012880001, which expired January 1, 2015, and continued to discharge wastewater from the Facility without authorization.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

## &gt;&gt; Programmatic Matrix

Falsification			
	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

## Violation Events

Number of Violation Events 5

139 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$6,250

Five monthly events are recommended, calculated from the date the permit expired, January 1, 2015, to the screening date, May 20, 2015.

## Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$6,250

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$908

Violation Final Penalty Total \$6,563

This violation Final Assessed Penalty (adjusted for limits) \$6,563

# Economic Benefit Worksheet

**Respondent** TRI-COUNTY POINT PROPERTY OWNERS ASSOCIATION  
**Case ID No.** 50564  
**Reg. Ent. Reference No.** RN103015053  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$10,000	1-Jan-2015	25-Oct-2016	1.82	\$908	n/a	\$908
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit a water quality permit application and obtain authorization to discharge wastewater from the Facility. Date required is the date the permit expired, and the final date is the estimated date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$908



Screening Date 20-May-2015

Docket No. 2015-0761-MWD-E

PCW

Respondent TRI-COUNTY POINT PROPERTY OWNERS ASSOCIATION

Policy Revision 4 (April 2014)

Case ID No. 50564

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103015053

Media [Statute] Water Quality

Enf. Coordinator Jason Fraley

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a)(1)

Violation Description

Failed to prevent the unauthorized discharge of wastewater into or adjacent to any water in the state, as documented during an investigation conducted February 27, 2015. Specifically, two discharges of wastewater occurred from the Facility's wastewater collection system: 1) approximately 30 gallons of wastewater discharged into the backyard of a residence located at 112 Catfish Drive when a broken pumping unit switch caused the pumping unit to fail; and 2) an unknown amount of wastewater discharged from a ruptured sewer line into a drainage ditch on Porpoise Drive.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 5.0%

## &gt;&gt; Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants as a result of the violation.

Adjustment \$23,750

\$1,250

## Violation Events

Number of Violation Events 2

14 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

Two quarterly events are recommended, one for each discharge, calculated from the investigation date, February 27, 2015, to the date of compliance, March 13, 2015.

## Good Faith Efforts to Comply

25.0%

Reduction \$625

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes The Respondent achieved compliance by March 13, 2015.

Violation Subtotal \$1,875

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$2,000

This violation Final Assessed Penalty (adjusted for limits) \$2,000

# Economic Benefit Worksheet

Respondent TRI-COUNTY POINT PROPERTY OWNERS ASSOCIATION  
 Case ID No. 50564  
 Reg. Ent. Reference No. RN103015053  
 Media Water Quality  
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment	\$1,100	27-Feb-2015	10-Mar-2015	0.03	\$0	\$2	\$2
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$500	27-Feb-2015	13-Mar-2015	0.04	\$1	n/a	\$1
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated equipment costs to replace and adjust the float switch to the sewer pump (\$600), and repair the ruptured sewer line (\$100 per linear feet x 5 linear feet). Date required is the investigation date, and the final date is the date of compliance.

Estimated remediation/disposal cost to cease the discharge and remediate the affected areas. Date required is the investigation date, and the final date is the date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,600

TOTAL

\$3

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



## TCEQ Compliance History Report

**PUBLISHED** Compliance History Report for CN600622823, RN103015053, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

<b>Customer, Respondent, or Owner/Operator:</b>	CN600622823, TRI-COUNTY POINT PROPERTY OWNERS ASSOCIATION	<b>Classification:</b> SATISFACTORY	<b>Rating:</b> 0.80
<b>Regulated Entity:</b>	RN103015053, BOCA CHICA SEC 3 PLT	<b>Classification:</b> SATISFACTORY	<b>Rating:</b> 0.80
<b>Complexity Points:</b>	4	<b>Repeat Violator:</b>	NO
<b>CH Group:</b>	08 - Sewage Treatment Facilities		
<b>Location:</b>	APPROXIMATELY 12,000 FEET SOUTHWEST OF THE POINT WHERE STATE HIGHWAY 35 CROSSES FIVE MILE BRANCH IN JACKSON COUNTY, TEXAS		
<b>TCEQ Region:</b>	REGION 14 - CORPUS CHRISTI		
<b>ID Number(s):</b>			

**Compliance History Period:** September 01, 2009 to August 31, 2014    **Rating Year:** 2014    **Rating Date:** 09/01/2014

**Date Compliance History Report Prepared:** June 09, 2015

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** June 09, 2010 to June 09, 2015

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Jason Fraley

**Phone:** (512) 239-2552

### **Site and Owner/Operator History:**

- |  |     |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period?       | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO  |
| 3) If <b>YES</b> for #2, who is the current owner/operator?  | N/A |
| 4) If <b>YES</b> for #2, who was/were the prior owner(s)/operator(s)?                              | N/A |
| 5) If <b>YES</b> , when did the change(s) in owner or operator occur?                              | N/A |

### **Components (Multimedia) for the Site Are Listed in Sections A - J**

**A. Final Orders, court judgments, and consent decrees:**

N/A

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1	June 17, 2010	(847500)
Item 2	July 20, 2010	(861916)
Item 3	August 16, 2010	(868451)
Item 4	September 10, 2010	(875351)
Item 5	October 18, 2010	(882912)
Item 6	November 15, 2010	(978891)
Item 7	December 17, 2010	(897691)
Item 8	January 18, 2011	(903582)
Item 9	February 11, 2011	(910476)
Item 10	March 21, 2011	(917715)
Item 11	March 31, 2011	(929105)
Item 12	May 16, 2011	(939424)
Item 13	June 03, 2011	(946835)
Item 14	July 25, 2011	(954090)
Item 15	February 07, 2012	(992054)
Item 16	April 05, 2012	(1004914)
Item 17	May 10, 2012	(1017835)
Item 18	July 05, 2012	(1032950)
Item 19	July 30, 2012	(1032952)
Item 20	November 15, 2012	(1068099)
Item 21	February 04, 2013	(1082024)
Item 22	February 05, 2013	(1082023)
Item 23	April 22, 2013	(1097136)
Item 24	May 17, 2013	(1108160)
Item 25	June 18, 2013	(1111741)
Item 26	June 28, 2013	(1108158)
Item 27	August 28, 2013	(1126432)
Item 28	October 17, 2013	(1136735)
Item 29	November 25, 2013	(1142148)
Item 30	December 16, 2013	(1148590)
Item 31	January 17, 2014	(1154662)
Item 32	February 13, 2014	(1161984)
Item 33	March 20, 2014	(1168598)
Item 34	April 17, 2014	(1175769)
Item 35	May 20, 2014	(1181987)
Item 36	June 18, 2014	(1188884)
Item 37	August 13, 2014	(1200698)
Item 38	September 12, 2014	(1207223)
Item 39	October 17, 2014	(1213630)
Item 40	November 17, 2014	(1219883)
Item 41	December 18, 2014	(1225686)
Item 42	January 20, 2015	(1232687)
Item 43	February 20, 2015	(1243682)
Item 44	March 18, 2015	(1250055)

**E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1      Date:      06/30/2014      (1194459)      CN600622823

Self Report?   YES      Classification:      Moderate

Citation:      2D TWC Chapter 26, SubChapter A 26.121(a)

                 30 TAC Chapter 305, SubChapter F 305.125(1)

Description:      Failure to meet the limit for one or more permit parameter

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
TRI-COUNTY POINT PROPERTY  
OWNERS ASSOCIATION  
RN103015053**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY  
§**

## **AGREED ORDER DOCKET NO. 2015-0761-MWD-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding TRI-COUNTY POINT PROPERTY OWNERS ASSOCIATION (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located approximately 12,000 feet southwest of the point where State Highway 35 crosses Five Mile Branch in Jackson County, Texas, with an associated wastewater collection system (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 3, 2015.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Eight Thousand Five Hundred Sixty-Two Dollars (\$8,562) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Dollars (\$200) of the administrative penalty and One Thousand Seven Hundred Twelve Dollars (\$1,712) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Six Thousand Six Hundred Fifty Dollars (\$6,650) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Ninety Dollars (\$190) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility:
  - a. On February 28, 2015, repaired a ruptured sewer line located on Porpoise Drive;
  - b. By February 28, 2015, ceased the discharge and remediated the affected area resulting from an unauthorized discharge on Porpoise Drive;
  - c. On March 5, 2015, replaced the float switch to the sewer pump located at 112 Catfish Drive;
  - d. On March 10, 2015, adjusted the float switch to the sewer pump located at 112 Catfish Drive; and
  - e. By March 13, 2015, ceased the discharge and remediated the affected area resulting from an unauthorized discharge at 112 Catfish Drive.



10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to maintain authorization for the discharge of wastewater into or adjacent to any water in the state, in violation of 30 TEX. ADMIN. CODE §§ 305.42(a), 305.65 and 305.125(2), and TEX. WATER CODE § 26.121(a)(1), as documented during an investigation conducted on February 27, 2015. Specifically, the Respondent did not renew Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012880001, which expired January 1, 2015, and continued to discharge wastewater from the Facility without authorization.
2. Failed to prevent the unauthorized discharge of wastewater into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), as documented during an investigation conducted February 27, 2015. Specifically, two discharges of wastewater occurred from the Facility's wastewater collection system: 1) approximately 30 gallons of wastewater discharged into the backyard of a residence located at 112 Catfish Drive when a broken pumping unit switch caused the pumping unit to fail; and 2) an unknown amount of wastewater discharged from a ruptured sewer line into a drainage ditch on Porpoise Drive.

## **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

## **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to

"TCEQ" and shall be sent with the notation "Re: TRI-COUNTY POINT PROPERTY OWNERS ASSOCIATION, Docket No. 2015-0761-MWD-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:

a. Immediately upon the effective date of this Agreed Order, and until such time that authorization to operate is obtained, or until 300 days after the effective date of this Agreed Order, whichever is earlier, comply with the permitted limitations and conditions of expired TPDES Permit No. WQ0012880001.

b. Within 30 days after the effective date of this Agreed Order, submit a permit application, in accordance with 30 TEX. ADMIN. CODE ch. 305 (relating to Consolidated Permits) to:

Water Quality Division  
Applications Review and Processing Team, MC148  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing.

d. Within 300 days after the effective date of this Agreed Order, submit written certification in accordance with Ordering Provision No. 2.e. that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained.

e. The certifications required by Ordering Provision No. 2.d. shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section Manager  
Corpus Christi Regional Office  
Texas Commission on Environmental Quality  
6300 Ocean Drive, Suite 1200  
Corpus Christi, Texas 78412-5503

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature

affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties..

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

Pam Manick  
For the Executive Director

5/26/16  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Stanley J. Kazwell, Jr.  
Signature

2/5/2016  
Date

STANLEY J KAZWELL, JR  
Name (Printed or typed)

PRESIDENT  
Title

Authorized Representative of

TRI-COUNTY POINT PROPERTY OWNERS ASSOCIATION

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.